

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

JESSICA TISCHER, ) CASE NO.  
INDIVIDUALLY AND AS ) 3:19-CV-00166-JDP  
PERSONAL REPRESENTATIVE )  
FOR THE SPOUSE AND )  
CHILDREN OF JACOB )  
TISCHER, DECEDENT, )  
) TELEPHONIC DEPOSITION OF  
PLAINTIFF, ) DEBRA GENGLER

VS. )

)  
UNION PACIFIC RAILROAD )  
COMPANY, A DELAWARE )  
CORPORATION, )

)  
DEFENDANT. )

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UNION PACIFIC RAILROAD )  
COMPANY, A DELAWARE )  
CORPORATION, )

)  
DEFENDANT/ )  
THIRD-PARTY PLAINTIFF, )

VS. )

)  
PROFESSIONAL )  
TRANSPORTATION, INC., )

)  
THIRD-PARTY DEFENDANT.)  
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TELEPHONIC DEPOSITION OF DEBRA GENGLER,  
taken before Cynthia Craig, Registered Professional  
Reporter and General Notary Public within and for  
the State of Nebraska, beginning at 2:12 p.m., on  
October 22, 2019, at the Office of Thomas & Thomas  
Court Reporters & Certified Legal Video, 1321 Jones  
Street, Omaha, Nebraska, pursuant to the within  
stipulations.

1 APPEARANCES

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10  
11 FOR THE DEFENDANT (PROFESSIONAL TRANSPORTATION,  
INCORPORATED):  
12 MR. MICHAEL B. COHEN  
MR. IAN FULLER (Present via telephone)  
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1 (Whereupon, the following proceedings were had  
2 to-wit:)

3 (The court reporter asked  
4 counsel if there were any  
5 stipulations for the record.)  
6 MR. BANKER: I don't believe so.

7 DEBRA GENGLER,  
8 having been first duly sworn,  
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BANKER:

12 Q. Could you, please, state your name for the  
13 record.

14 A. Sure. Debra, D-E-B-R-A; Gengler,  
15 G-E-N-G-L-E-R.

16 Q. Ms. Gengler, have you ever had your  
17 deposition taken before?

18 A. Yes.

19 Q. How many times roughly?

20 A. Ten roughly.

21 Q. Okay. So you're probably familiar with  
22 the process, but I'll just go over some ground  
23 rules. It's important that you answer audibly  
24 because the court reporter's taking down everything  
25 that we say.

It's also important that we not talk over

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<p>1 each other, so I'll try to ask a question and then</p> <p>2 pause to give you a chance to answer. If at any</p> <p>3 time I ask a question, you don't understand it, let</p> <p>4 me know and I'll try to clarify it.</p> <p>5 A. Okay.</p> <p>6 Q. And if you need to take a break, let me</p> <p>7 know.</p> <p>8 A. Okay.</p> <p>9 Q. What, if anything, have you done to</p> <p>10 prepare -- other than conversations with your</p> <p>11 attorney, what have you -- if anything, have you</p> <p>12 done to prepare for your deposition before?</p> <p>13 A. I looked through a first aid book briefly.</p> <p>14 Q. Any other conversations?</p> <p>15 A. No.</p> <p>16 Q. Any other documents you looked at?</p> <p>17 A. No.</p> <p>18 Q. And when you say first aid book -- uh,</p> <p>19 I'll work around it.</p> <p>20 (Exhibit 9</p> <p>21 marked previously, but referred</p> <p>22 to in this deposition.)</p> <p>23 BY MR. BANKER:</p> <p>24 Q. Showing you what's been previously marked</p> <p>25 as Exhibit 9, I'll represent to you that that is a</p> <p>deposition exhibit that is excerpts from the</p>	<p>1 BasicPlus training handbook to show the table of</p> <p>2 content -- the cover page, table of contents and</p> <p>3 some substantive information.</p> <p>4 Is that the first aid book that you</p> <p>5 referred to?</p> <p>6 A. It was a blue book.</p> <p>7 Q. Okay.</p> <p>8 A. Same title.</p> <p>9 Q. Okay. Let me go about it this way: Do</p> <p>10 you know a UP employee by the name of Jacob Tischer?</p> <p>11 A. No.</p> <p>12 Q. Were you aware that Jacob Tischer had an</p> <p>13 incident on August 12th, 2017, at the Altoona yard</p> <p>14 in Eau Claire -- or at the UP yard in Altoona, where</p> <p>15 he needed emergency medical attention?</p> <p>16 A. No, not until today.</p> <p>17 Q. Okay. And so I take it -- where are you</p> <p>18 physically located in terms of your office?</p> <p>19 A. Omaha.</p> <p>20 Q. Here in Omaha?</p> <p>21 A. Yes.</p> <p>22 Q. So I take it you weren't in Altoona --</p> <p>23 A. Correct.</p> <p>24 Q. -- on August 12th, 2017?</p> <p>25 A. Correct.</p>
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<p>1 Q. Did you speak with anyone about the</p> <p>2 incident on August 12th, 2017?</p> <p>3 A. No.</p> <p>4 Q. And let me give you a couple of names just</p> <p>5 to be specific about that.</p> <p>6 Have you spoken with Neal Friendshuck</p> <p>7 (phonetic) about this incident?</p> <p>8 A. No.</p> <p>9 Q. Chaz Lux (phonetic)?</p> <p>10 A. No.</p> <p>11 Q. Mark Marvin?</p> <p>12 A. No.</p> <p>13 Q. Mike Swentech (phonetic)?</p> <p>14 A. No.</p> <p>15 Q. Eric Ericksen (phonetic)?</p> <p>16 A. No.</p> <p>17 Q. Jessica Carson?</p> <p>18 A. No.</p> <p>19 Q. Or John Holland?</p> <p>20 A. No.</p> <p>21 Q. Okay. So other than hearing today that</p> <p>22 there was an incident involving Jacob Tischer, I</p> <p>23 take it that you don't have any personal knowledge</p> <p>24 whatsoever --</p> <p>25 A. Correct.</p>	<p>1 Q. -- about that?</p> <p>2 Do you have -- in -- let me just ask a</p> <p>3 couple of questions about -- by way of background.</p> <p>4 What -- are you currently employed?</p> <p>5 A. Yes.</p> <p>6 Q. By whom?</p> <p>7 A. Union Pacific.</p> <p>8 Q. And what do you do for them?</p> <p>9 A. I -- my title is called a director of</p> <p>10 clinical services.</p> <p>11 Q. And how long have you done that?</p> <p>12 A. June 2006.</p> <p>13 Q. What do you do in your role as director of</p> <p>14 clinical services?</p> <p>15 A. Responsible for fitness for duty, staff</p> <p>16 report to me, and the VCM, vocational case managers,</p> <p>17 report to me.</p> <p>18 Q. Do you have any direct interaction or</p> <p>19 oversight of the Twin Cities' service unit?</p> <p>20 A. No.</p> <p>21 Q. Do you have any direct responsibility for</p> <p>22 training of employees regarding any sort of medical</p> <p>23 issues on the Twin City service unit?</p> <p>24 A. Employees, no.</p> <p>25 Q. Okay. When you say employees, no --</p>

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<p>1 A. No.</p> <p>2 Q. -- were you thinking of something --</p> <p>3 someone -- something else that you do training for?</p> <p>4 A. No.</p> <p>5 Q. Okay. How long have you been with UP?</p> <p>6 A. June 2006.</p> <p>7 Q. Okay. What did you do generally before</p> <p>8 that?</p> <p>9 A. Occupational health nursing.</p> <p>10 Q. Here in Omaha?</p> <p>11 A. No, most recent was North Sioux City,</p> <p>12 South Dakota.</p> <p>13 Q. Okay. Was that for another company?</p> <p>14 A. Correct.</p> <p>15 Q. What company?</p> <p>16 A. Gateway.</p> <p>17 Q. You're a high school graduate?</p> <p>18 A. Correct.</p> <p>19 Q. College graduate?</p> <p>20 A. Correct.</p> <p>21 Q. Where did you go to college?</p> <p>22 A. Briar Cliff.</p> <p>23 Q. And any --</p> <p>24 A. Master's of -- I'm a nurse, so I first</p> <p>25 went to the nursing school, then Briar Cliff College</p>	<p>1 for my BSN, and University of Iowa for my master's</p> <p>2 in occupational health nursing.</p> <p>3 Q. And you mentioned that you're a nurse, so</p> <p>4 do you hold a nursing certification of some kind?</p> <p>5 A. A license, yes.</p> <p>6 Q. Is that a licensed --</p> <p>7 A. Yes.</p> <p>8 Q. LLP?</p> <p>9 A. RN.</p> <p>10 Q. RN?</p> <p>11 A. Yes.</p> <p>12 MR. BANKER: Sorry. I guess I don't</p> <p>13 have any further questions.</p> <p>14 CROSS-EXAMINATION</p> <p>15 BY MR. COHEN:</p> <p>16 Q. Good afternoon. My name is Michael Cohen</p> <p>17 and I represent Professional Transportation,</p> <p>18 Incorporated. Are you familiar with the name</p> <p>19 Professional Transportation, Incorporated?</p> <p>20 A. I know it's a service that is utilized</p> <p>21 within the company and that's about it, provide</p> <p>22 transportation.</p> <p>23 Q. Okay. Are you -- do you have any</p> <p>24 awareness of Professional Transportation,</p> <p>25 Incorporated's role within this case?</p>
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<p>1 A. Not exactly, except they provide</p> <p>2 transportation --</p> <p>3 Q. Fair enough.</p> <p>4 A. -- for crew.</p> <p>5 Q. Okay. Suffice it to say, you have no</p> <p>6 criticism of Professional Transportation,</p> <p>7 Incorporated, whatsoever regarding the issues</p> <p>8 involved in this matter, correct?</p> <p>9 A. Could you restate that, please.</p> <p>10 Q. Sure. Do you have any criticism regarding</p> <p>11 Professional Transportation, Incorporated, regarding</p> <p>12 this matter?</p> <p>13 A. I can't respond to that. I've not been</p> <p>14 involved on the details of the transportation of</p> <p>15 your company.</p> <p>16 Q. Right. And correct -- I would be correct</p> <p>17 in saying you thus have no criticism regarding the</p> <p>18 acts or omissions of Professional Transportation,</p> <p>19 Incorporated, regarding Mr. Tischer?</p> <p>20 MR. HAYDEN: I think she said she has</p> <p>21 no opinion.</p> <p>22 THE WITNESS: Yeah, I -- I have no</p> <p>23 response to that.</p> <p>24 MR. COHEN: Okay. I don't have any</p> <p>25 further questions.</p>	<p>1 THE WITNESS: Okay.</p> <p>2 MR. HAYDEN: Let me just think for a</p> <p>3 second here.</p> <p>4 CROSS-EXAMINATION</p> <p>5 BY MR. HAYDEN:</p> <p>6 Q. Ms. Gengler, are you aware that -- you're</p> <p>7 aware that Union Pacific does not require training</p> <p>8 of its employees on the signs and symptoms of a</p> <p>9 stroke?</p> <p>10 A. Yes.</p> <p>11 Q. What is the reasoning as you understand it</p> <p>12 for that?</p> <p>13 A. Well, I understand there's no regulation</p> <p>14 requiring us to do that. I also understand that the</p> <p>15 incidence of a stroke on property is extremely low,</p> <p>16 and I also believe that by training 45,000 employees</p> <p>17 to become health care providers is not prudent.</p> <p>18 Q. And does the railroad train its employees</p> <p>19 on when to call 911?</p> <p>20 A. No.</p> <p>21 Q. And is there an expectation that you would</p> <p>22 have as to if there's a change in someone's</p> <p>23 condition, employee's condition that an employee</p> <p>24 would -- a fellow employee may call 911?</p> <p>25 A. Yes, it would be my expectation that if I</p>

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<p>1 was an employee and I felt like I needed someone, I</p> <p>2 would ask a coworker to call 911.</p> <p>3 Q. Uh-huh.</p> <p>4 A. Or if the coworker saw that I was becoming</p> <p>5 suddenly incapacitated and couldn't care for myself</p> <p>6 it would be my expectation they would call for me.</p> <p>7 MR. HAYDEN: Okay. I don't have any</p> <p>8 further questions.</p> <p>9 MR. BANKER: Nothing further.</p> <p>10 MR. COHEN: Nothing for me.</p> <p>11 MR. HAYDEN: All right. Thank you.</p> <p>12 (Court reporter asked counsel to</p> <p>13 place their transcript order on</p> <p>14 the record.)</p> <p>15 MR. BANKER: I'll take a full and</p> <p>16 condensed pdf with the exhibit.</p> <p>17 MR. COHEN: No copy.</p> <p>18 MR. HAYDEN: Etran.</p> <p>19 (2:23 p.m. - Adjournment.)</p> <p>20 ** * * * *</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 STATE OF NEBRASKA )</p> <p>4 ) ss.</p> <p>5 COUNTY OF DOUGLAS )</p> <p>6</p> <p>7 I, Cynthia Craig, Registered Professional</p> <p>8 Reporter and General Notary Public within and for</p> <p>9 the State of Nebraska, do hereby certify that the</p> <p>10 foregoing testimony of DEBRA GENGLER was taken by me</p> <p>11 in shorthand and thereafter reduced to typewriting</p> <p>12 by use of Computer-Aided Transcription, and the</p> <p>13 preceding thirteen (13) pages contain a full, true</p> <p>14 and correct transcription of all the testimony of</p> <p>15 said witness, to the best of my ability;</p> <p>16 That I am not a kin or in any way associated</p> <p>17 with any of the parties to said cause of action, or</p> <p>18 their counsel, and that I am not interested in the</p> <p>19 event thereof.</p> <p>20 IN WITNESS WHEREOF, I hereunto affix my</p> <p>21 signature and seal the 4th day of November, 2019.</p> <p>22</p> <p>23</p> <p>24 CYNTHIA A. CRAIG, RPR</p> <p>25 GENERAL NOTARY PUBLIC</p> <p>My Commission Expires:</p>